

2013 DRAFTING REQUEST

Bill

Received: 2/4/2013	Received By: mshovers
Wanted: As time permits	Same as LRB:
For: David Craig (608) 266-3363	By/Representing: Nathan
May Contact:	Drafter: mshovers
Subject: Local Gov't - munis generally	Addl. Drafters:
	Extra Copies: EVM

Submit via email: **YES**
 Requester's email: **Rep.Craig@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Require a supermajority referendum vote from small towns in certain annexation proceedings

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 2/28/2013			_____			
/1	mshovers 3/18/2013	scalvin 3/18/2013	jfrantze 3/1/2013	_____	sbasford 3/1/2013		
/2	mshovers 3/19/2013		jfrantze 3/18/2013	_____	mbarman 3/18/2013		
/3	mshovers	scalvin	jfrantze	_____	lparisi		

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	3/25/2013	3/19/2013	3/19/2013	_____	3/19/2013		
/4		scalvin	rschluet	_____	mbarman	srose	
		3/25/2013	3/25/2013	_____	3/25/2013	3/27/2013	

FE Sent For:

↳ Not
Needed

<END>

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/3		scalvin	jfrantze		lparisi		

14 MES 3/25/13
 3/25/13 JM

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13 MES 3/19/13

13 sac
03/19/2013

[Signature]
3/19

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1/2 MES 3/18/13
1/2 sue
03/18/2013

3/18
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/? mshovers

1/1 MES 2/27/13

FE Sent For:

1/1 sac
03/01/2013

<END>

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Nathan Rep Craig 63363 - pop is 6000 - they need ^{to be able to incorp} ~~land~~ to
 Town of Brookfield is incorporating a

→ a village & simultaneously annexing
 part of ^{town of} Waikesha - - pop of 300

larger town has = 6000
 smaller town has 300

If this happens ^{vote in} smaller town
 needs a super-majority

split the referendum ^{Town} Waikesha
 needs 75% maj to allow annexation
 to proceed

~~as~~ allow for 2 referendums so
 smaller town needs super-majority



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-17137

MES.../...

San

Rmp

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

WANTED:
MONDAY

D-note

using a method commonly
referred to as annexation
by court order and
referendum, and by

- 1 **AN ACT** ...; **relating to:** changing the referendum requirements for certain
- 2 annexations of town territory.

Analysis by the Legislative Reference Bureau

Under current law, there are a number of methods by which a town may incorporate as a city or village. Once a town is incorporated as a new city or village it may, like any other city or village, annex certain town territory by following certain procedures. The required procedures include adopting a resolution declaring its intention to apply to the circuit court for an order for an annexation referendum, publishing the resolution in a newspaper that has general circulation in the area proposed to be annexed, preparation of a scale map and description of the area proposed to be annexed, and distribution of such materials to the clerk of the town or towns from which the territory is to be detached. The city or village must then file a petition for annexation with the circuit court. If the court determines that the statutorily required procedures have been met, it must approve the application and petition and order a referendum to be held in the town on the proposed annexation.

Before the date set by the court for a hearing on the city or village petition, if a protest petition, signed by the statutorily required number of electors or property owners in the town, is filed with the court, the court must dismiss the city or village annexation petition. If the court finds the protest petition insufficient, the court must hear all parties interested for or against the city or village application. Following the hearing, if the court determines that the city or village has met all of the required procedures, the court must order a referendum in the town.

The referendum election must be held not less than 70 days nor more than 100 days after the court's order is filed. If a majority of the votes cast at the referendum

is for annexation, the territory described in the petition and application is annexed to the petitioning city or village.

Under this bill, if the petitioning city or village is a former town that simultaneously incorporates as a city or village and also adopts an annexation resolution, and if the population of the former town is greater than the population of the town from which the territory is proposed to be annexed, the referendum that is held in the town from which territory is proposed to be annexed must be approved by at least 75 percent of the electors who vote in the referendum or the proposed annexation may not take effect.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 66.0219^x (5) (b) of the statutes is amended to read:

2 66.0219 (5) (b) If Except as provided in par. (c) if a majority of the votes cast
3 at the referendum election is for annexation, the territory shall be annexed to the
4 petitioning city or village upon compliance with s. 66.0217 (9).

5 SECTION 2. 66.0219⁽⁵⁾ (6) (c) of the statutes is created to read:

6 66.0219⁽⁵⁾ (6) (c) If the city or village adopting the resolution under sub. (1) (a)
7 is a former town that simultaneously incorporates as a city or village under s.
8 66.0203, and acts under this section to annex town territory, and if the population
9 of the former town is greater than the population of the town from which the territory
10 is proposed to be annexed, the proposed annexation may not take effect unless the
11 number of votes cast at the referendum election in favor of annexation equals at least
12 75 percent of the total number of votes cast at that election.

13 **SECTION 3. Initial applicability.**

14 (1) This act first applies to an application to the circuit court for an annexation
15 referendum that is filed on the effective date of this subsection.

16 (END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1713/?dn

MES.../.....

Sac

- date -

Rep. Craig:

Please review this draft very carefully to ensure that it meets your intent. My understanding is that the draft is intended to address a situation involving the towns of Brookfield and Waukesha in Waukesha County. I'm not sure whether the initial applicability provision in the bill is sufficient to achieve your intent, or if you need the bill to apply retroactively to an earlier part of the annexation process. Please let me know if any changes to the bill are necessary.

Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1713/1dn
MES:sac:jf

March 1, 2013

Rep. Craig:

Please review this draft very carefully to ensure that it meets your intent. My understanding is that the draft is intended to address a situation involving the towns of Brookfield and Waukesha in Waukesha County. I'm not sure whether the initial applicability provision in the bill is sufficient to achieve your intent, or if you need the bill to apply retroactively to an earlier part of the annexation process. Please let me know if any changes to the bill are necessary.

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Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1713/4

MES:sae:ff

2013 BILL

WANTED
TUES.

R M N R

Redraft program
wouldn't work

- 1 AN ACT *to amend* 66.0219 (5) (b); and *to create* 66.0219 (5) (c) of the statutes;
2 relating to: changing the referendum requirements for certain annexations of
3 town territory.

Analysis by the Legislative Reference Bureau

Under current law, there are a number of methods by which a town may incorporate as a city or village. Once a town is incorporated as a new city or village it may, like any other city or village, annex certain town territory by using a method commonly referred to as annexation by court order and referendum, and by following certain procedures. The required procedures include adopting a resolution declaring its intention to apply to the circuit court for an order for an annexation referendum, publishing the resolution in a newspaper that has general circulation in the area proposed to be annexed, preparation of a scale map and description of the area proposed to be annexed, and distribution of such materials to the clerk of the town or towns from which the territory is to be detached. The city or village must then file a petition for annexation with the circuit court. If the court determines that the statutorily required procedures have been met, it must approve the application and petition and order a referendum to be held in the town on the proposed annexation.

Before the date set by the court for a hearing on the city or village petition, if a protest petition, signed by the statutorily required number of electors or property owners in the town, is filed with the court, the court must dismiss the city or village annexation petition. If the court finds the protest petition insufficient, the court must hear all parties interested for or against the city or village application.

BILL

Following the hearing, if the court determines that the city or village has met all of the required procedures, the court must order a referendum in the town.

The referendum election must be held not less than 70 days nor more than 100 days after the court's order is filed. If a majority of the votes cast at the referendum is for annexation, the territory described in the petition and application is annexed to the petitioning city or village.

Under this bill, if the petitioning city or village is a former town that simultaneously incorporates as a city or village and also adopts an annexation resolution, and if the population of the former town is greater than the population of the town from which the territory is proposed to be annexed, the referendum that is held in the town from which territory is proposed to be annexed must be approved by at least 75 percent of the electors who vote in the referendum or the proposed annexation may not take effect.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.0219 (5) (b) of the statutes is amended to read:

2 66.0219 (5) (b) If Except as provided in par. (c), if a majority of the votes cast
3 at the referendum election is for annexation, the territory shall be annexed to the
4 petitioning city or village upon compliance with s. 66.0217 (9).

5 **SECTION 2.** 66.0219 (5) (c) of the statutes is created to read:

6 66.0219 (5) (c) If the city or village adopting the resolution under sub. (1) (a)
7 is a former town that simultaneously incorporates as a city or village under s.
8 66.0203, and acts under this section to annex town territory, and if the population
9 of the former town is greater than the population of the town from which the territory
10 is proposed to be annexed, the proposed annexation may not take effect unless the
11 number of votes cast at the referendum election in favor of annexation equals at least
12 75 percent of the total number of votes cast at that election.

13 **SECTION 3. Initial applicability.**

BILL

1 ^{election} (1) This act first applies to ^{held} ~~an application to the circuit court for an annexation~~
2 referendum) that is ~~held~~ on the effective date of this subsection.

3

(END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1713/2
MES:sac:ff

3
RMR

2013 BILL

WANTED
Wed.

regan

1 AN ACT *to amend* 66.0219 (5) (b); and *to create* 66.0219 (5) (c) of the statutes;
2 *incorporations of villages and cities*
3 relating to: *changing the referendum requirements for certain annexations of*
town territory involving more than one town.

Analysis by the Legislative Reference Bureau

INS
1-3

Under current law, there are a number of methods by which a town may incorporate as a city or village. Once a town is incorporated as a new city or village it may, like any other city or village, annex certain town territory by using a method commonly referred to as annexation by court order and referendum, and by following certain procedures. The required procedures include adopting a resolution declaring its intention to apply to the circuit court for an order for an annexation referendum, publishing the resolution in a newspaper that has general circulation in the area proposed to be annexed, preparation of a scale map and description of the area proposed to be annexed, and distribution of such materials to the clerk of the town or towns from which the territory is to be detached. The city or village must then file a petition for annexation with the circuit court. If the court determines that the statutorily required procedures have been met, it must approve the application and petition and order a referendum to be held in the town on the proposed annexation.

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The referendum election must be held not less than 70 days nor more than 100 days after the court's order is filed. If a majority of the votes cast at the referendum is for annexation, the territory described in the petition and application is annexed to the petitioning city or village.

Under this bill, if the petitioning city or village is a former town that simultaneously incorporates as a city or village and also adopts an annexation resolution, and if the population of the former town is greater than the population of the town from which the territory is proposed to be annexed, the referendum that is held in the town from which territory is proposed to be annexed must be approved by at least 75 percent of the electors who vote in the referendum or the proposed annexation may not take effect.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

INS 2-1 →
1 **SECTION 1.** 66.0219 (5) (b) of the statutes is amended to read:

2 66.0219 (5) (b) If Except as provided in par. (c), if a majority of the votes cast
3 at the referendum election is for annexation, the territory shall be annexed to the
4 petitioning city or village upon compliance with s. 66.0217 (9).

5 **SECTION 2.** 66.0219 (5) (c) of the statutes is created to read:

6 66.0219 (5) (c) If the city or village adopting the resolution under sub. (1) (a)
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8 66.0203, and acts under this section to annex town territory, and if the population
9 of the former town is greater than the population of the town from which the territory
10 is proposed to be annexed, the proposed annexation may not take effect unless the
11 number of votes cast at the referendum election in favor of annexation equals at least
12 75 percent of the total number of votes cast at that election.

13 **SECTION 3. Initial applicability.**

BILL

1 (1) This act first applies to a referendum election that is held on the effective
2 date of this subsection.

3 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1713/3ins
MES:sac:jf

INS 1-3

Under current law, all or part of a town or more than one town may incorporate as a city or village by a number of methods. Under the most generally applicable method, the procedures include the following:

1. The circulation of an incorporation petition in the territory to be incorporated, and the filing of the petition with the circuit court.

2. A circuit court hearing on the petition at which the court determines whether a number of statutory standards are met, including resident population and population density.

3. If the court finds that the standards are met, a review of the petition by the Incorporation Review Board (board) for a determination on whether a number of statutory standards are met, including the characteristics of the territory, the level of governmental services that are desired or needed by the residents compared to the level of services offered by the proposed city or village, the impact upon the remainder of the town from which the territory is to be incorporated, and the impact of the proposed incorporation on the metropolitan community. If the board dismisses the petition, the circuit court must issue an order dismissing the petition.

4. If the board grants the petition, the circuit court must order an incorporation referendum. If a majority of the votes on the referendum are cast in favor of a village or city, the secretary of state must issue and record a certificate of incorporation.

Under this bill, if the territory to be incorporated includes portions of more than one town, the electors of each town must approve the referendum for the incorporation to take effect. In addition, the majority that is required to approve the referendum in the town that has the smallest population, of all the towns from which territory is taken for the proposed incorporation, is 75 percent.

INS 2-1

x

SECTION 1. 66.0211 (1) of the statutes is amended to read:

66.0211 (1) ORDER. The circuit court's order for an incorporation referendum shall specify the voting place and the date of the referendum, which shall be not less than 6 weeks from the date of the order, and name 3 inspectors of election. If the territory proposed to be incorporated includes portions of more than one town, the court shall, for each town, specify a voting place and name inspectors. If the order is for a city incorporation referendum the order shall further specify that 7 alderpersons shall be elected at large from the proposed city. The city council at its

first meeting shall determine the number and boundaries of wards in compliance with s. 5.15 (1) and (2), and the combination of wards into aldermanic districts. The number of alderpersons per aldermanic district shall be determined by charter ordinance.

SECTION 2. 66.0211 (3) of the statutes is renumbered 66.0211 (3) (a) and amended to read:

66.0211 (3) (a) RETURN. ~~An~~ Except as provided in par. (b), an incorporation referendum shall be conducted in the same manner as an annexation referendum under s. 66.0217 (7) to the extent applicable except that the ballot shall contain the words "For a city [village]" and "Against a city [village]". The inspectors shall make a return to the circuit court.

History: 1971 c. 304; 1973 c. 37, 90; 1977 c. 29 s. 1654 (c); 1977 c. 273; 1979 c. 361 s. 112; 1981 c. 4 s. 19; 1981 c. 377; 1993 a. 184; 1995 a. 27, s. 9116 (5); 1999 a. 150 s. 40; Stats. 1999 s. 66.0211; 2011 a. 32.

SECTION 3. 66.0211 (3) (b) of the statutes is created to read:

66.0211 (3) (b) If the territory proposed to be incorporated includes portions of more than one town, the referendum to approve incorporation in the town with the smallest population requires a majority of at least 75 percent of the total number of votes cast at that election in the territory proposed to be incorporated.

SECTION 4. 66.0211 (4) of the statutes is amended to read:

66.0211 (4) COSTS. If the referendum is against incorporation in any town included in the territory to be incorporated, the costs of the election shall be borne by the towns involved in the incorporation referendum in the proportion that the number of electors of each town within the territory proposed to be incorporated, voting in the referendum, bears to the total number of electors in the territory voting in the referendum. If the referendum is for a village or city, the costs shall be charged against the municipality in the apportionment of town assets.

SECTION 5. 66.0211 (5) of the statutes is amended to read:

66.0211 (5) CERTIFICATION OF INCORPORATION. If a majority, or supermajority as provided in sub. (3) (b), of the votes in each town included in the territory to be incorporated in an incorporation referendum are cast in favor of a village or city, the clerk of the circuit court shall certify the fact to the secretary of state and supply the secretary of state with a copy of a description of the legal boundaries of the village or city and the associated population and a copy of a plat of the village or city. Within 10 days of receipt of the description and plat, the secretary of state shall forward 2 copies to the department of transportation and one copy each to the department of administration and the department of revenue. The secretary of state shall issue a certificate of incorporation and record the certificate.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1713/9

MES:sac:7

4
RMA

2013 BILL

WANTED:
NOW

Wagen

- 1 AN ACT *to renumber and amend* 66.0211 (3); *to amend* 66.0211 (1), 66.0211
2 (4) and 66.0211 (5); and *to create* 66.0211 (3) (b) of the statutes; **relating to:**
3 incorporations of villages and cities involving more than one town.

Analysis by the Legislative Reference Bureau

Under current law, all or part of a town or more than one town may incorporate as a city or village by a number of methods. Under the most generally applicable method, the procedures include the following:

1. The circulation of an incorporation petition in the territory to be incorporated, and the filing of the petition with the circuit court.

2. A circuit court hearing on the petition at which the court determines whether a number of statutory standards are met, including resident population and population density.

3. If the court finds that the standards are met, a review of the petition by the Incorporation Review Board (board) for a determination on whether a number of statutory standards are met, including the characteristics of the territory, the level of governmental services that are desired or needed by the residents compared to the level of services offered by the proposed city or village, the impact upon the remainder of the town from which the territory is to be incorporated, and the impact of the proposed incorporation on the metropolitan community. If the board dismisses the petition, the circuit court must issue an order dismissing the petition.

4. If the board grants the petition, the circuit court must order an incorporation referendum. If a majority of the votes on the referendum are cast in favor of a village or city, the secretary of state must issue and record a certificate of incorporation.

BILL

territory with the smallest population, that is located solely in one of the towns

Under this bill, if the territory to be incorporated includes portions of more than one town, the electors of each town must approve the referendum for the incorporation to take effect. In addition, the majority that is required to approve the referendum in the town that has the smallest population, of all the towns from which territory is taken for the proposed incorporation, is 75 percent.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.0211 (1) of the statutes is amended to read:

66.0211 (1) ORDER. The circuit court's order for an incorporation referendum shall specify the voting place and the date of the referendum, which shall be not less than 6 weeks from the date of the order, and name 3 inspectors of election. If the territory proposed to be incorporated includes portions of more than one town, the court shall, for each town, specify a voting place and name inspectors. If the order is for a city incorporation referendum the order shall further specify that 7 alderpersons shall be elected at large from the proposed city. The city council at its first meeting shall determine the number and boundaries of wards in compliance with s. 5.15 (1) and (2), and the combination of wards into aldermanic districts. The number of alderpersons per aldermanic district shall be determined by charter ordinance.

SECTION 2. 66.0211 (3) of the statutes is renumbered 66.0211 (3) (a) and amended to read:

66.0211 (3) (a) RETURN. Except as provided in par. (b), an incorporation referendum shall be conducted in the same manner as an annexation referendum under s. 66.0217 (7) to the extent applicable except that the ballot shall contain the words "For a city [village]" and "Against a city [village]". The inspectors shall make a return to the circuit court.

BILL

1 **SECTION 3.** 66.0211 (3) (b) of the statutes is created to read:

2 66.0211 (3) (b) If the ^{total} territory proposed to be incorporated includes portions of
3 more than one town, the referendum to approve incorporation in the ^{part of the territory with the smallest population} town with the ^{that is} smallest population ^{located solely in} requires a majority of at least 75 percent of the total number of ^{one}
4 votes cast at that election in ^{that part of} the territory proposed to be incorporated. ^{of the}
5 towns,

6 **SECTION 4.** 66.0211 (4) of the statutes is amended to read:

7 66.0211 (4) COSTS. If the referendum is against incorporation in any town
8 included in the territory to be incorporated, the costs of the election shall be borne
9 by the towns involved in the incorporation referendum in the proportion that the
10 number of electors of each town within the territory proposed to be incorporated,
11 voting in the referendum, bears to the total number of electors in the territory voting
12 in the referendum. If the referendum is for a village or city, the costs shall be charged
13 against the municipality in the apportionment of town assets.

14 **SECTION 5.** 66.0211 (5) of the statutes is amended to read:

15 66.0211 (5) CERTIFICATION OF INCORPORATION. If a majority, or supermajority as
16 provided in sub. (3) (b), of the votes in each town included in the territory to be
17 incorporated in an incorporation referendum are cast in favor of a village or city, the
18 clerk of the circuit court shall certify the fact to the secretary of state and supply the
19 secretary of state with a copy of a description of the legal boundaries of the village
20 or city and the associated population and a copy of a plat of the village or city. Within
21 10 days of receipt of the description and plat, the secretary of state shall forward 2
22 copies to the department of transportation and one copy each to the department of
23 administration and the department of revenue. The secretary of state shall issue a
24 certificate of incorporation and record the certificate.

25 **SECTION 6. Initial applicability.**

1 (1) This act first applies to a referendum election that is held on the effective
2 date of this subsection.

3 (END)

Rose, Stefanie

From: Lewis, Amy
Sent: Wednesday, March 27, 2013 2:40 PM
To: LRB.Legal
Subject: Draft Review: LRB -1713/4 Topic: Require a supermajority referendum vote from small towns in certain annexation proceedings

Please Jacket LRB -1713/4 for the ASSEMBLY.